



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/835,515	04/17/2001	C. Gomer Thomas	2916-0133P	5684

2292 7590 07/31/2006

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER

HUYNH, SON P

ART UNIT	PAPER NUMBER
----------	--------------

2623

DATE MAILED: 07/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/835,515	Applicant(s) THOMAS ET AL.	
	Examiner Son P. Huynh	Art Unit 2623	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 June 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 03 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1-12, 14-20, 22-26, 35-38 and 44-47.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
 13. ☐ Other: _____.



CHRIS KELLEY
 SUPERVISORY PATENT EXAMINER
 TECHNOLOGY CENTER 2600

Continuation of 11. does NOT place the application in condition for allowance because: Applicant argues the original specification at lines 9-11, page 24 states "[t]he PC can have an Ethernet adapter for the Liaison unit 104 to communicate with Content Provider units 102.... The Ethernet Adapter can also be used to send content to certain types of Mixing Units 108..." Original Fig. 8 depicting the liaison unit 104, clearly shows that the insertion engine 820 of the liaison unit 104 sends the content to the mixing unit (108). Hence, the original specification and Figure 8 fully support that the Ethernet adapter can be used by the Insertion Engine 820 of the Liaison unit to sent content from the Liaison unit to the Mixing Unit. (page 13, paragraph 4).

In response, the examiner respectfully disagrees with Applicant's conclusion. As indicated by the applicant regarding the cited portion of the specification and figure 8, the Ethernet adapter communicates with Content provider unit 102 and the Ethernet adapter can be used to send content to certain types of Mixing Units 108 and even though, as argued by the applicant, the insertion engine 820 sends the content to the mixing unit. However, the specification and figure 8 does not support that the Ethernet adapter can also be used by the Insertion Engine 820 of the Liaison unit to send content from the Liaison unit to the Mixing Unit.

In response to Applicant argument that Applicant's proposed insertion of "the outputs of this operation can be store in an Account Info Storage 812" (to page 25, lines 4-12 and 14-17 of the original specification), and "The output of this operation can be stored in a Content Storage 816" (to the paragraph bridging pages 25 and 26 of the original specification), the support for such modification is provided, e.g., in Fig. 8 clearly shows that the output of the boxes 802, 804, and 806 are respectively sent to Account Info 812, Catalog Store 814, and Content Store 816 (paragraph bridging pages 13 and 14), the examiner agrees that Figure 8 show connection between boxes 802, 804, 806 with Account Info 812, Catalog Store 814, and Content Store 816 respectively. However, there is no description that support "the outputs of this operation can be stored in an Account Info Storage" and "the outputs of this operation can be stored in a Content Storage 816". Page 25, lines 4-12 and 14-17 of the original specification merely describes Exchange Account Info 802 and with Synchronize Account option and Exchange Account Info 802 with Synchronize all Account options. This section does not support "the output of this operation can be stored in an Account Info Storage 812". Paragraph bridging pages 25 and 26 of the original specification merely describes Accept Delivered content 806 without mention about the Content Storage 816. This section does not support "The outputs of this operation can be stored in a Content Storage 816".

For the reason given above, the objection of the added new subject matters in specification are maintained as discussed in the Final Office Action.

Applicant also argues Eldering does not teach or suggest the content provider unit (advertiser) provide "insertion schedule" (page 14, paragraph 3, page 16, paragraph 3).

In response, this argument is respectfully traversed. Eldering discloses the advertiser provides the ad characteristic (to describe their advertisements) such as ad bandwidth, ad duration, and other ad specific parameters (see including, but are not limited to, col. 2, lines 25-39). The Ad Management System (AMS) matches these parameters with the avail space and inserts the advertisements according the ad parameters and provides the advertisement to subscribers (see including, but are not limited to, col. 2, lines 40-67). Eldering further discloses the avail data may include specifics about the avail opportunities, such as duration, broadcast time, etc. (see including, but are not limited to, col. 5, line 61-col. 6, line 45). The advertisement is inserted into the stream when the advertisement characteristic provided by the advertiser match with the avail data in the stream (see including, but are not limited to, col. 9, lines 4-54). Thus, the ad characteristic must include the time to match with broadcast time in the avail data. The limitation "insertion schedule" is broadly met by the ad bandwidth, ad duration, time, etc. provided by the advertiser so that the advertisement is scheduled to insert at predetermined avail space in the stream where the bandwidth, duration, time, etc. of avail data matches with the bandwidth, duration, time, etc. of the ad characteristics.

For the reasons given above, all rejections of the claims are maintained as discussed in the Final Office Action mailed on March 22, 2006.